

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

**Charles Everett Cook, Sylvia Mae Cook,  
and Timothy Blake Cook, natural persons,**

**Court File No.: 06-0022 (DWF/AJB)**

**Plaintiffs,**

**v.**

**City of Minneapolis, a municipal entity;  
Minneapolis Police Officer Mark Johnson,  
Badge #003459, in his individual, personal  
and official capacity; Sgt. D. Smulski, in his  
individual, personal and official capacity;  
Officer K. Blackwell, in his individual,  
personal and official capacity; Officer  
Geoffrey Toscano, Badge #007257, in his  
individual, personal and official capacity;  
Officer Bevan Blauert, Badge #003459, in  
his individual, personal and official  
capacity; Officer Jon Petron, Badge #4671,  
in his individual, personal and official  
capacity; Officer Christopher House, Badge  
#3165, in his individual, personal and  
official capacity; Sgt. Robert Kroll, Badge  
#003874, in his individual, personal and  
official capacity; Officer Christie Nelson,  
Badge #4959, in his individual, personal and  
official capacity; Officer William Willner,  
Badge #7783, in his individual, personal and  
official capacity; Officer Westlund, Badge  
#7674, in his individual, personal and  
official capacity; Officer Roger Smith,  
Badge #006689; Officer Jason King, Badge  
#003704, in his individual, personal and  
official capacity; Officer Timothy Hands,  
Badge #002660, in his individual, personal  
and official capacity; and Officers Jane Doe  
and Richard Roe, unknown and unnamed  
Minneapolis Police Officers, in their  
personal, individual, and official capacities,**

**AFFIDAVIT OF TRACEY NELSON**

**Defendants.**

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STATE OF MINNESOTA )  
 )ss  
COUNTY OF HENNEPIN)

Your Affiant, being duly sworn on oath, deposes and states as follows:

1. She is an Assistant City Attorney employed by the City of Minneapolis.
2. In that capacity, she is one of the Assistant City Attorneys representing the Defendants in the above-entitled matter.
3. Plaintiffs' Summons and Complaint were served upon the Defendants on or about January 9, 2006. *See* Exhibit 1: "Complaint."
4. On September 15, 2006, Defendants served the following discovery requests upon counsel for the Plaintiffs. *See* Exhibit 2: "Defendants Discovery Requests."
5. Included in those discovery requests were medical releases which Affiant needs in order to properly defend the Defendants in the above-entitled matter.
6. On January 11, 2007, Defendants sent Plaintiff a letter informing Plaintiff that the responses were overdue and inquiring as to when they would be completed.
7. When Defendants did not hear from Plaintiff, Defendants sent another letter to Plaintiff on January 22, 2007 demanding Plaintiff provide the responses by January 25, 2007. To date Defendants have yet to receive any responses.
8. On January 16, 2007, Defendants noticed the depositions for the Plaintiffs to be held on January 31, 2007.
9. The Plaintiffs did not appear for their depositions on January 31, 2007. The parties, by and through their attorneys scheduled depositions of both Plaintiffs and Defendants to be held from February 13 through February 15, 2007, with the Plaintiffs

depositions to be held on February 14, 2007. On February 13, 2007, when your Affiant appeared to defend depositions, Plaintiffs' counsel informed your Affiant that the Plaintiffs would not be available to appear for depositions on February 14, 2007.

10. As of the date of this Affidavit, Affiant has not received any responses to Defendants' Discovery Requests nor have any of the Plaintiffs appeared for any scheduled depositions.

11. Your Affiant certifies that she believes the above-referenced attempts to obtain discovery requests and schedule Plaintiffs depositions constitute good faith attempts pursuant to Rule 37 to obtain discovery without the necessity of court action.

12. Because of Plaintiffs' failure to provide responses to Defendants' Discovery Requests and scheduled depositions, these Defendants have not been able to adequately prepare a defense in this matter. Accordingly, Defendants respectfully request the Court compel Plaintiffs to provide discovery responses and Plaintiffs' appearance for depositions in this matter.

Further Affiant sayeth naught

Subscribed and sworn to  
before me this 15th day  
of February, 2007.

/s/ Tracey L. Nelson

/s/ Lisa Marie Maciej  
Notary Public  
My Commission expires: